

## REMARKS

In the Office Action dated January 14, 2005, pending claims 1 through 11 and 15 through 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,053,112 ("Scott"). Finally, pending claims 12 through 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,383,782 ("Pillifant").

### 35 U.S.C. §102

Pending claims 1 through 11 and 15 through 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,053,112 ("Scott"). Scott, however, does not disclose each and every limitation of Applicant's amended independent claims 1, 8, and 15.

#### Claim 1

Applicant amends claim 1 by adding the limitations from claims 2 and 4 therein and, further, to more clearly claim the invention. Accordingly, Applicant cancels claims 2 and 4. Applicant submits that claim 1 is not anticipated by Scott. Scott does not disclose the brace section having a flap that is bent downwardly from the brace section and towards the back portion of the front panel to provide a spring biasing force on the back portion of the front panel to hold the goods in the opening, as required by Applicant's claim 1.

First, Scott does not disclose a flap. The Examiner identifies both the flap and the brace of claim 1 as reference numbers (13<sup>1</sup> and 13<sup>2</sup>), which is the flange of Scott. The flange cannot act as both the brace and the flap of claim 1. Accordingly, Scott cannot anticipate Applicant's claim 1.

Second, Scott does not disclose the flap being bent downwardly from the brace section toward the back portion of the front panel. Assuming that the flange 13 is equivalent to the flap

(an assumption that is inaccurate), the flange 13 of Scott is not bent downwardly, not bent from a brace section, and not bent toward the back portion of the front panel. The flange 13 of Scott is bent away from the front panel, as is clear from FIGS. 2 and 5.

Finally, Scott does not disclose the flap providing a spring biasing force on the back portion of the front panel so as to hold the goods in the opening. There is no element in Scott that provides a spring biasing force. Additionally, no goods are held in the opening created by the flange 13 of Scott, which is the only opening in the front panel. Any item held in Scott would merely rest on the ledge (19), not in an opening.

#### **Claim 8**

Applicant amends claim 8 by adding the limitations of claim 9 and to more clearly claim the invention. Accordingly, Applicant cancels claim 9. Applicant submits that like claim 1, amended claim 8 is allowable over Scott. More specifically, Scott does not disclose a flap being bent downwardly from said back panel toward said back portion of said front panel, wherein the flap provides a spring biasing force on the back portion of the front panel so as to hold the goods in the opening. First, Scott does not disclose a flap. Second, Scott does not disclose a flap being bent downwardly from the back panel. Scott does not disclose bending anything from the back panel. The flange 13 of Scott (which, as previously argued, is not the flap) is not bent from the back panel, it is clearly bent from the front panel. Finally, Scott does not disclose providing a spring biasing force on the back portion of the front panel so as to hold the goods in the opening.

#### **Claim 15**

Applicant amends claim 15 by adding the limitations from claim 16 therein and to more clearly claim the invention. Accordingly, Applicant cancels claim 16. Applicant submits that

claim 15 is allowable over Scott. In particular, Scott does not disclose a fourth score line on the brace section being bent to form a flap. As is clear from Scott, even assuming that the flange 13 is equivalent to the brace section of claim 15, an assumption Applicant will not concede, nothing is bent from it. Further, Scott does not disclose the flap extending toward the back portion of the front panel. Assuming that the flange 13 is the flap (which, as previously argued, is not the flap), it does not extend toward the back portion of the front panel, it extends away, see FIG. 5.

Finally, Scott does not disclose a flap providing a spring biasing force on the back portion of the front panel so as to hold the goods in the holder. Nothing in Scott provides a spring biasing force. Further, there is no flap that provides a spring biasing force on the back portion of the front panel so as to hold the goods in the holder.

Therefore, in light of the arguments above Applicant submits that claims 1, 8 and 15 are allowable over Scott and respectfully requests the Examiner withdraw the rejection thereof.

Further, as claims 3, 5, 6, 7, 10, 11, and 17-20 depend directly or indirectly from claims 1, 8, and 15 and add additional limitations thereto, Applicant submits that such claims are likewise allowable over Scott and respectfully request withdrawal of the rejections thereof.

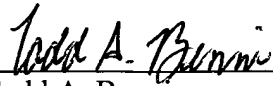
### **Claim 12**

Finally, pending claims 12 through 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by Pillifant. Applicant amends claim 12 by adding the limitations from claim 13 therein and to more clearly claim the invention. Accordingly, Applicant cancels claim 13. Pillifant, however, does not disclose each and every limitation of Applicant's amended claim 12. In particular, Pillifant does not disclose a flap extending from the bottom panel upward toward the front panel, wherein the flap provides a spring biasing force on the back portion of the front panel so as to hold the goods in the opening. As stated in column 9, lines 21 through 25, the flap

136 creates a tray for a battery. It does not provide a spring biasing force. Additionally, the flap 136 of Pillifant does not hold goods in the opening in the front panel. Therefore, Applicant submits that claims 12 and 14 are allowable and requests the Examiner withdraw the rejections thereof.

In light of the foregoing arguments and amendments, Applicant submits that the rejected claims are in better form for consideration on appeal under 37 CFR 1.116 and respectfully request the Examiner enter and consider such amendments. Further, Applicant submits that no new issues have arisen by way of these amendments and arguments presented above because the scope of the claims as pending have not changed. Only the scope of the independent claims pending have changed due to limitations from dependent claims being added to the independent claims. Therefore, further consideration and/or search is not required. Finally, Applicant respectfully requests the Examiner withdraw the rejections and indicate the pending claims as allowable. Should the Examiner have any questions or comments regarding this case, the Examiner is encouraged to call undersigned counsel at her convenience.

Respectfully submitted,

  
\_\_\_\_\_  
Todd A. Benni  
Reg. No. 42,313  
McDonald Hopkins Co., LPA  
600 Superior Avenue, E.  
Suite 2100  
Cleveland, OH 44114-2653  
(216) 348-5740

Date: April 14, 2005